

## **Exhibit E**

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF MASSACHUSETTS  
3

4 UNITED STATES OF AMERICA )  
5 )  
6 vs. ) CR No. 19-10117-IT  
7 )  
8 STEPHEN SEMPREVIVO )  
9

10 BEFORE: THE HONORABLE INDIRA TALWANI  
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13 PLEA  
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16 John Joseph Moakley United States Courthouse  
17 Courtroom No. 9  
18 One Courthouse Way  
19 Boston, MA 02210  
20 Tuesday, May 7, 2019  
21 2:30 p.m.

22 Cheryl Dahlstrom, RMR, CRR  
23 Official Court Reporter  
24 John Joseph Moakley United States Courthouse  
25 One Courthouse Way, Room 3510  
Boston, MA 02210  
Mechanical Steno - Transcript by Computer

1 APPEARANCES:

2 ON BEHALF OF THE GOVERNMENT:

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1     appellate right. And here he's gaining significantly from that  
2     from the guidelines calculation.

3             THE COURT: But I think the concern on restitution --  
4     I think the concern on restitution is essentially what you're  
5     saying is that there should just be a blank check. You have  
6     given no indication of what you would seek for restitution. We  
7     have no clue what those numbers are going to be.

8             MR. ROSEN: Your Honor, I don't have --

9             THE COURT: And he can't even assess it because if you  
02:55 10     are -- take the same position -- if the government takes the  
11     same position here, essentially, it's entirely in the hands of  
12     a party that's not here. They could just decide that every  
13     single proceeding they're going to be flying back and forth and  
14     hiring the most expensive lawyers they can find and so on.  
15     It's not in his control.

16             MR. ROSEN: Your Honor, respectfully, I don't agree  
17     with that. I don't have the power to award a restitution.  
18     It's your Honor either at sentencing or in a proceeding  
19     afterwards. I can make a motion to seek restitution, but,  
02:55 20     ultimately, the amount is governed by your Honor. I also  
21     think that in the first --

22             THE COURT: Just hold onto that point though just to  
23     be clear. So the government doesn't take a position on what  
24     the restitution is. I have to apply the law --

25             MR. ROSEN: Correct.

1 THE COURT: -- in whatever sentencing decisions I  
2 make. But for some reason, the government is insistent that I  
3 be given unbridled discretion in that the defendant can't  
4 appeal that -- even as to the restitution, which is an unknown  
5 figure here, that there would be no right of appeal, whereas it  
6 couldn't be because of a real interest in finality because if,  
7 for example, I were to decide not to award restitution, the  
8 government could appeal it.

9 So you've taken no position here on what the  
02:56 10 appropriate restitution is, and you are essentially saying,  
11 Judge, do whatever you want here, but just know that anything  
12 that you do on this completely unlimited matter, the government  
13 retains the right to appeal, and the defendant has no right to  
14 appeal.

15 MR. ROSEN: Well, (a), I don't think the amount of  
16 restitution here is going to be significant in terms of -- we  
17 have 30-odd parents, a lot of whom -- a bunch of whom were at  
18 Georgetown. So I don't think it's -- divided up by a number of  
19 people, I don't think it's going to be unduly high. I don't  
02:57 20 think this is the case where we're going to seek millions and  
21 millions of dollars worth of restitution. Obviously, I would  
22 have made that known.

23 But I think the most part of the plea agreement,  
24 obviously, is, you know, (a), restitution to be determined in  
25 an amount at sentencing. So it's impossible for me to sort of

1 -- in a case that's really at its inception determine how much  
2 restitution will be awarded or even if restitution at all will  
3 be awarded or if the victim here, Georgetown, will even seek  
4 restitution to begin with.

5 THE COURT: Yes. But the only issue is not to  
6 determine the amount of restitution but to determine whether  
7 the defendant is giving me a blank check on this. That's all.

8 MR. ROSEN: Well, I think -- you know, every defendant  
9 has to do his or her own balancing act. And the balancing act  
02:57 10 done here was that the government's offering what I think to be  
11 a very favorable resolution to the case, and in exchange he  
12 gives up his appellate rights.

13 THE COURT: But with regard to this particular point,  
14 it's -- who knows how favorable it is or isn't, right? I may  
15 decide that this -- what has happened in this whole series is a  
16 -- is of such magnitude that the restitution owed to the  
17 victims is a far greater number, right? We're talking about  
18 gain or loss, and I'm not sure who the loss is, but presumably  
19 it's a loss to the universities.

02:58 20 I mean, you're -- I find -- I guess my question is: I  
21 understand the negotiation. I understand this is a voluntary  
22 agreement that was negotiated on known terms. I don't  
23 understand the unknown term here where there is no -- you have  
24 no idea what the numbers are. I have no idea what the numbers  
25 are. He has no idea what the numbers are. But what you're

1 saying, essentially, is I choose the number, and he has no  
2 right to appeal it and you do.

3 MR. ROSEN: Judge, respectfully, it's the same with  
4 the sentence. We're making a recommendation. I don't know  
5 what the -- what Probation, your Honor, will calculate. It's  
6 the same with the fine. We're making a recommendation. I  
7 don't know what your Honor --

8 THE COURT: Right. But you're not making a  
9 recommendation on the restitution. You're just leaving it  
02:59 10 blank right now, and then you will make whatever argument you  
11 want about restitution down the road.

12 MR. ROSEN: First of all, I mean, all the cases I've  
13 done are sort of -- are all like that. It's impossible at the  
14 plea to know exactly who's entitled to restitution, whether  
15 other victims will come forward or not, whether victims will  
16 even seek restitution. These are unknowns.

17 I think the point of the appellate waiver is you're  
18 getting something. We're getting something. And the -- and to  
19 do all these carve-outs for specific things, I don't think  
03:00 20 would be in the best use of -- really of anybody's time  
21 especially when we're giving what I think to be a very  
22 favorable recommendation here. I think --

23 THE COURT: Well, it's not my role to renegotiate your  
24 deal and if this is what he's asked for -- but when you're  
25 coming and asking me to what might be at sentencing novel

1 questions certainly with regard to any restitution to a victim  
2 here, I don't think you have much precedent for how you would  
3 give restitution on this type of a claim. And so you're asking  
4 me to -- that I will be asked to look at this and try to  
5 determine what's happening. And I have to say, in that  
6 circumstance where you have a plea agreement that does not  
7 carve out his right to appeal it and gives you a right to  
8 appeal it, I would be very conservative in entertaining any  
9 novel ideas on the restitution.

03:00 10 MR. ROSEN: I understand. As of this moment, the only  
11 restitution that I can imagine at this time is restitution  
12 related perhaps to legal fees that would be distributed amongst  
13 all the defendants who participated in the criminal activity  
14 involving Georgetown. That's the only thing I can think of.  
15 Whether Georgetown will even seek that or move to be heard on  
16 that is another matter. I just don't know. So I -- you know,  
17 there are always unknowns when you go from a plea to a  
18 sentence. And I think the -- you know, I think it's a mistake  
19 to carve out one particular provision from a holistic plea  
03:01 20 agreement to say this wasn't bargained for.

21 THE COURT: But you don't have to convince me of what  
22 you think is a good or bad plea. I'm not negotiating with you.  
23 I don't have the opportunity to negotiate. Counsel expressed  
24 his reservation about the restitution. It seems like a very  
25 wise reservation. I'm advising you that, in the event that you



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C E R T I F I C A T E

I certify that the foregoing is a correct transcript  
of the record of proceedings in the above-entitled matter to  
the best of my skill and ability.

/s/Cheryl Dahlstrom

Cheryl Dahlstrom, RMR, CRR

Official Court Reporter

Dated: May 9, 2019